

United States Bankruptcy Court
Eastern District of Virginia
RICHMOND DIVISION

In re: **Howard F. Cochran**
Maria C. Richards

Case No.: **13-34528**

Chapter: **13**

Debtors

Address: **1324 Goswick Ridge Road**
Midlothian, VA 23114

Last four digits of Social Security No(s) : **xxx-xx-9952; xxx-xx-5903**

NOTICE OF MOTION

Maria C. Richards has filed papers with the court to Approve Settlement and Compromise pursuant to FRBP 9019.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have employed one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion (or objection), or if you want the Court to consider your views on the motion (or objection), then on or before March 31, 2015, you or your attorney must:

 x File with the Court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 E. Broad St. Room 4000
Richmond, VA 23219

You must also mail a copy to:

Christopher M. Winslow, Esq.
Winslow & McCurry, PLLC
1324 Sycamore Square, Ste 202C
Midlothian, VA 23113

 Attend a hearing to be scheduled at a later date. You will receive separate notice of the hearing.

If no timely response has been filed opposing the relief requested, the Court may grant the relief without holding a hearing.

x Attend the hearing on the motion (or objection) scheduled to be held on April 1, 2015 at 10:00 a.m. at United States Bankruptcy Court, 701 E. Broad Street, Room 5100, Richmond, VA 23219.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 2/27/2015

/s/ Christopher M. Winslow, Esq.
Winslow & McCurry, PLLC
1324 Sycamore Square
Midlothian, VA 23113
VSB No. 76156
Counsel for Howard F. Cochran & Maria C. Richards

Certificate of Service

I hereby certify that I have this 27 day of February, 2015, mailed or hand-delivered a true copy of the foregoing Notice of Motion to the parties listed on the attached service list.

/s/ Christopher M. Winslow, Esq.

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

IN RE: HOWARD F. COCHRAN
 MARIA C. RICHARDS

Case #:13-34528
Chapter 13

Debtors.

**MOTION TO APPROVE SETTLEMENT &
COMPROMISE PURSUANT TO FRBP 9019**

COMES NOW MARIA C. RICHARDS, Debtor, by Counsel, and moves for the approval of this court of a settlement and compromise.

PARTIES

1. The movants are the Debtors in the above identified case, as defined by the Bankruptcy Code.

FACTS

2. The debtors, Howard F. Cochran and Maria C. Richards filed a Voluntary Petition in Bankruptcy on August 21, 2013.
3. The debtor, Maria C. Richards, has settled an outstanding long term disability claim as part of a lawsuit which was filed in the United States District Court for the District of Columbia, Case No. 14-00107(KBJ), hereinafter "the Settlement."
4. The Confidential Release (Attached hereto as Exhibit 1) sets forth that the Defendant, Standard Insurance Company, hereinafter "Standard", will pay \$53,373.69 for past due benefits through 6/30/14 which includes an attorney fee in the amount of \$3,000.00 representing work performed during the litigation phase only as allowed under ERISA.
5. As part of her continuing case, Maria C. Richards shall receive \$3698.50 per month from Standard (Gross benefit of \$6,000 minus \$2301.50 Social Security Disability

Benefit).

6. Maria C. Richards signed a Fee Agreement dated 8/4/12 (Attached hereto as Exhibit 3) with the named professional, Scott B. Elkind, Esq., a partner with the law firm of Elkind and Shea to pursue her long term disability benefits.
7. The Fee Agreement calls for payment to Mr. Elkind of 1/3 of all past, present and future benefits due to the unique challenges involved with long term disability claim cases.
8. Such challenges include the fact that these cases usually involve only a relatively small benefit on the back end of the case that does not fully compensate a practitioner for the large undertaking involved in filing an administrative appeal for these cases.
9. Further, Mr. Elkind did not raise his fee to 40 percent when litigation was necessary; instead Mr. Elkind took the risk of petitioning and receiving a discretionary fee as awarded by the Court for efforts in undertaking litigation only and not the much more laborious administrative appeal filed previously. In order to foster settlement, Mr. Elkind accepted a 50% reduction in his requested litigation fee.
10. As a result of Mr. Elkind's administrative and litigation efforts, Maria C. Richards was paid 100% of past due term disability benefits and was placed back on claim. The duration of future benefits remains unknown as Ms. Richards is subject to continued scrutiny by Standard.
11. Mr. Elkind continues to represent Maria C. Richards in accordance with the Fee Agreement and the incorporated Notice of Authorization, Lien and Payment Instructions (Exhibit 3) which requires all long term disability payments from Standard to be mailed to Mr. Elkind.
12. The agreement calls for payment of one-third of all monies received by Ms. Richards which Mr. Elkind has agreed to receive a reduced fee amount of \$1200.00 per month. Monthly, Standard will send the check to Mr. Elkind who will in turn subtract this fee

and pay the remaining \$2498.50 benefit to the Trustee for distribution.

13. Debtor Maria C. Richards seeks the approval of the Court on the terms and conditions outlined above and commemorated in the Settlement to wit:

a. Should no objections to the MOTION TO APPROVE SETTLEMENT & COMPROMISE PURSUANT TO FRBP 9019 be filed within days of the entry of this Order, Standard is directed disburse \$53,373.69 as follows:

- i. \$19,000.00 disbursed to Scott B. Elkind, Esq.
- ii. \$2,586.25 disbursed to Elkind & Shea
- iii. \$18,474.44 disbursed to Robert E. Hyman, Trustee
- iv. \$13,000.00 disbursed to debtor Maria C. Richards

b. Should no objections to the MOTION TO APPROVE SETTLEMENT & COMPROMISE PURSUANT TO FRBP 9019 be filed within days of the entry of this Order, Standard is directed to disburse \$3698.50 per month as follows:

- i. \$3698.50 per month to Elkind & Shea; of that amount, \$1,200.00 per month to be accepted as compensation by Elkind & Shea, \$1,200.00 per month to be disbursed to Suzanne Wade, Trustee and \$1298.50 per month to be disbursed to debtor Maria C. Richards.

WHEREFORE, the parties seek approval, pursuant to FRBP 9019 of the settlement and compromise of the matter before the court.

RICHARD F. COCHRAN
MARIA C. RICHARDS

/s/ Christopher M. Winslow, Esq.
Christopher M. Winslow, VSB #76156
Winslow & McCurry, PLLC
1324 Sycamore Square
Suite 202 C
Midlothian, VA 23113
(804) 423-1382
chris@chriswinslow.com

CERTIFICATE OF SERVICE

I CERTIFY THAT I served a copy of the foregoing on all counsel of record, the Chapter 13 Trustee, the US Trustee, all creditors, and all parties in interest by US MAIL, on this 27th day of February, 2015.

/s/ Christopher M. Winslow, Esq.
Christopher M. Winslow, VSB #76156
Winslow & McCurry, PLLC
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13-34528-KLP Howard F. Cochran and Maria C. Richards

Case type: bk **Chapter:** 13 **Asset:** Yes **Vol:** v **Judge:** Keith L. Phillips

Date filed: 08/21/2013 **Date of last filing:** 11/15/2014 **Plan confirmed:** 11/15/2013

Creditors

American Express Centurion Bank

c/o Becket and Lee LLP (12121914)
POB 3001 (cr)
Malvern PA 19355-0701

Amex

Po Box 297871 (11951056)
Fort Lauderdale, FL 33329-0000 (cr)

Bb&T

Po Box 2306 (11951058)
Wilson, NC 27894-0000 (cr)

BB&T

Po Box 1847 (11966508)
Wilson, NC 27894 (cr)

Bb&T

Po Box 2027 (11951057)
Greenville, SC 29602-0000 (cr)

Cap One

26525 N Riverwoods Blvd (11951059)
Mettawa, IL 60045-0000 (cr)

Chase

Po Box 15298 (11951060)
Wilmington, DE 19850-0000 (cr)

Citi

Po Box 6241 (11951061)
Sioux Falls, SD 57117-0000 (cr)

Commonwealth of VA-Tax
P.O. Box 2156
Richmond, VA 23218-2156

(11951062)
(cr)

Credit Adjustment Bo
306 East Grace Street
Richmond, VA 23219-0000

(11951063)
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Internal Revenue Service
Insolvency Unit
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(11984009)
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Internal Revenue Service
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326 S Main St
Emporia, VA 23847-0000

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3101 Latrobe Drive
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(11951068)
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Portfolio Recovery Associates, LLC
POB 41067
Norfolk VA 23541

(12153202)
(cr)

Robert Vaughn
3705 Fort Ave.
Salem, VA 24153-0000

(11951069)
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Sears/Cbna

Po Box 6282

Sioux Falls, SD 57117-0000

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USAA FEDERAL SAVINGS BANK

C O WEINSTEIN, PINSON, AND RILEY, PS

2001 WESTERN AVENUE, STE 400

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